

## Expectations, Employability and Mooting

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# Expectations, Employability and Mooting: Is this the Real Life? Is this Just Fantasy?



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## 1) The Problem: Is 'mooting' at University level 'fit for purpose'?

*What is that 'purpose'? Do we accurately advertise the benefits of mootng i.e. are the benefits to aid legal skills and analytical reasoning or give 'realistic' career insights, and enrich students' employability? Does mootng at University level give students a false expectation of the legal profession, and what it means to be a 'lawyer'? Should such 'realistic' insights come at University level, or once a student embarks on an LPC/BPTC programme? What is the role of a University in developing students' employability expectations?*

Mooting is defined as "the oral presentation of a legal issue or problem. It is perhaps the closest experience that a student can have whilst at University to appearing in court" (Oxford University Press). Today 59% of universities offer mootng as an alternative form of assessment- Boylan-Kemp, *Mooting in Modern Day Legal Education* (2013). However, is there a disconnect between that experience, and the reality of what the profession requires?

Professor Huxley-Binns, when discussing 'tripping over thresholds', encouraged us to carefully consider what we mean when we tell students to 'think like a lawyer', i.e. what type of lawyers do we mean? What are our views of such reality i.e. how do our students acquire legal knowledge, skills, behaviours and attributes (Lord Upjohn Lecture 2015). Do our current methods of teaching mootng distort the reality of being a 'junior lawyer'?

At a time when the SRA, Law Society and Bar Council are pushing for 'graduates of the future' to be more 'skills aware' and 'resilient', does the current system of University mootng provide opportunities to develop these skills?

## 2) The Expectation(s):

"University must equip students with skills to enter the workplace" (QAA 2015)

2016/17: 91% agreed that 'mooting gives you a realistic insight into a career as a 'lawyer'..."

"Where possible, we should try and mirror student expectations" (Banks 1999)



2016/17: 86% expected to make a presentation as part of their LLB

2013-2017: 42% of students started their LLB with the expectation of becoming a barrister



## 3) The Reality:

- Most moot problem scenarios are set in the Court of Appeal or Supreme Court, and relate to highly complex interpretations of the law, which could be argued either way...**disconnect with the reality of being a junior barrister within England and Wales.**
- Students are given weeks, if not months, to carefully research the most authoritative and persuasive precedents (rather than the hours or days they will most likely have in legal practice)...**implications for legal skills development.**
- Unless a student goes and sits in the lower courts, the only video footage they see of proceedings comes from the Court of Appeal or Supreme Court....**implications for student expectations.**
- University mootng teaches students that there is a clear 'winner' in a case...**what about split judgements, or arguing the impossible? Implications for student resilience/coping with failure.**
- Conviction and passion in a student's style of delivery will convince the guest judge of their 'eureka moment'. This approach to advocacy is further amplified by popular media perceptions of lawyers, such as Judge John Deed, Judge Rinder, Judge Judy and Silk...**implications for students' expectations.**

## 4) The Theory:

...why does mootng matter?

- 14<sup>th</sup> Century: mootng and debating was used as a way to teach and assess understanding of the law in the Inns of Court. **Pearce, A Guide to the Inns of Court and Chancery (1885)**
- '...we test our learning through action...our brain gets feedback about our thinking when we discuss ideas...such results in richer neural networks.' **Wirth and Perkins, Learning to Learn(2012)**
- Facilitators dynamically engage students by: 1) a commitment to career-wide learning and 2) psycho-social interaction in the teaching spaces. **Gunn and Fisk, Considering Teaching Excellence in HE (2013)**
- The four behaviours of effective teaching and engaging students in the classroom are: 1) structure 2) caring about students 3) making classes relevant 4) effective delivery methods and extending teaching 'outside' the classroom. **Schwartz, What the Best Law Teachers Do (2013)**
- 'Students expect practical experiences...and in order to encourage engagement the reality should mirror expectations. ' **Dutton, Great Expectations(2012)**

## 5) The ("Possible") Solutions:

...foundations for the future?



**Revisiting the way 'mooting' assessments are set and/or advertised**— either by: 1) **redesigning** the assessments in line with the reality of legal practice; 2) **reassessing** the way such activities are **promoted**; and/or 3) **delivering career/employability** sessions focusing on how mootng activities at University mirror/differ from life as a solicitor or barrister.



**Compulsory 'work experience' or 'sitting in Magistrates/County Court 'experience** - for those wishing to pursue a career as a barrister or solicitor. **Alternative forms of assessment: employability development/self reflection diary**



**Encourage** students to enter moot competitions that more closely reflect the reality of legal practice, so as to inform their career ambitions and choices, for example the **National Speed Moot.**

**Encourage** students with ambitions of pursuing a career at the Bar to enter **mock trials** as well as moot competitions, for example the **Blackstone's Competition.**

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